

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

STEVEN P. KENNY,)	
)	
Plaintiff,)	
)	
v.)	No. 4:16 CV 736 JMB
)	
)	
NANCY A. BERRYHILL, ¹)	
Acting Commissioner of Social Security,)	
)	
Defendant.)	

ORDER

This matter is before the Court on Plaintiff's Motion for Attorney's Fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d). (ECF No. 32) Defendant has filed a Response to Plaintiff's Motion. (ECF No. 33) In her motion, Plaintiff seeks \$2699.52 in fees, based upon 12.75 hours of work at \$194.08 per hour by the attorney and 2.5 hours of work at \$90 per hour by legal assistants. Defendant agrees with this calculation.

Under the EAJA, in civil actions brought by or against the United States, a court shall award attorney's fees to a prevailing party unless the position of the United States was substantially justified. 28 U.S.C. § 2412(d)(1)(A). In Social Security cases, a sentence four remand of the Commissioner's denial of benefits is sufficient to confer prevailing party status. Shalala v. Shaefer, 509 U.S. 292, 302 (1993).

¹ Nancy A. Berryhill is now the Acting Commissioner of Social Security. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Nancy A. Berryhill should be substituted for Acting Commissioner Carolyn W. Colvin as the defendant in this suit. No further action needs to be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

This Court entered judgment reversing the Commissioner's decision and remanding the matter to the Administrative Law Judge on February 10, 2017, thereby making Plaintiff the prevailing party. (ECF No. 31). Additionally, Plaintiff submitted a detailed accounting of the time spent on this case, and the reasons for the fees incurred. (ECF No. 32-2) The Court finds that the number of hours worked, the hourly rate, and the total fee payable in this case is reasonable, and in accordance with the EAJA. The Court also notes that Plaintiff executed a fee agreement assigning any EAJA fee to her attorney. (ECF No. 29-3)

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion for Attorney's Fees (ECF No. 32) is GRANTED, in the amount of \$2,699.52.

IT IS FURTHER ORDERED that said award shall be paid by the Social Security Administration to Plaintiff's attorney, based on the assignment, subject to any pre-existing debt that the litigant may owe to the United States.

/s/ **John M. Bodenhausen**
JOHN M. BODENHAUSEN
UNITED STATES MAGISTRATE JUDGE

Dated this 13th day of April, 2017.